

INTEGRATED ORDINANCE 87-1 (as amended)

Whereas, it is the public interest for protection of public and private property to control the spread of oak wilt fungus a/k/a *Ceratocystis fagacearum*.

Whereas, the spread of oak wilt fungus is believed to be increased by cutting and pruning of oak trees between April 1 and October 1 of each year.

NOW, THEREFORE, the Town Board of Supervisors of the Town of Wescott, Shawano County, does ordain as follows:

**SECTION 1 - TITLE.** The ordinance shall be named the Oak Wilt Fungus Control Ordinance.

**SECTION 2 - TOWN FORESTER.** The office of Town Forester is hereby created to be filled by appointment by the Town Board Chairperson subject to conformation by the Town Board. The Town Forester shall have the powers and perform the duties imposed by this ordinance and by ch. 27 of the Wisconsin Statutes.

**SECTION 3 - DEFINITIONS.** a. "Oak wilt fungus", a/k/a *Ceratocystis fagacearum* is a disease of oak trees carried by way of grafted root systems between infected and healthy trees or by insects carrying spores.

b. The Town Forester may authorize on behalf of the Town of Wescott other persons to carry-out inspections and authorize permits.

**SECTION 4 - DESIGNATION OF A TREE DISEASE CONTROL AREA.** The Town Forester shall designate an oak wilt control area within the Township in which this shade tree disease ordinances and control procedures shall be enacted.

**SECTION 5 - PROHIBITION OF TRIMMING, CUTTING, WOUNDING OR PRUNING OAK TREES FROM APRIL 1 TO OCTOBER 1 OF EACH YEAR.** a. To control the overland spread of oak wilt, no person shall cut, trim, wound or prune any oak trees, or allow the cutting, trimming, wounding or pruning of oak trees in the Town of Wescott between April 1 and October 1 of each year without first obtaining a written permit from the Town Forester.

b. No person shall take any action which causes incidental damage to oak trees from April 1 to October 1 of each year. For example doing damage to oaks while falling other trees. This shall include any activity which breaks open the bark of oak trees, thereby making them susceptible to the oak wilt fungus. If wounding is unavoidable during this period, as in the aftermath of a storm or when the tree interferes with utility lines, a tree wound dressing shall be applied immediately.

**SECTION 6 - PROHIBITION OF TRANSPORTING ANY INFECTED OAK WOOD OR BARK INTO OR THROUGH THE TOWN OF WESCOTT FROM APRIL 1 TO OCTOBER 1.** a. No person shall, at any time, transport or allow to be transported any wood or bark known to be infected with oak wilt fungus through the Town of Wescott from April 1 to October 1 of any year, except a person may transport infected wood to the Town of Wescott burnsite upon a permit issued under this ordinance for transportation of such wood during scheduled hours of the burnsite.

b. Except to allow for disposal of the wood by burning, burying, chipping or debarking before April 1 of the year following the death of the trees, wood from trees known to be infected with oak wilt fungus may not be moved off any property in the Town of Wescott. Property owners must provide proof to the Town Forester of proper disposal of any oak wilt infected wood removed from their property or be subject to the penalties in Section 13.

**SECTION 7 - HANDLING OF INFECTED OAK WOOD OR BARK DURING THE PERIOD OF APRIL 1 TO OCTOBER 1.** a. To prevent the oak wilt fungus from producing spores and to prevent overland spread of this fungus, any diseased material of the red oak group wilting the previous year, shall be declared hazardous the following year from April 1 until October 1.

b. Any hazardous oak wood to be used as fuel wood or to be salvaged for other purposes must be debarked or else completely covered by heavy plastic (4 mil or greater) from April 1 to October 1 of the year following the appearance of symptoms. After this time there is no danger of spore production, and the wood does not need to be covered.

c. Any branch greater than 3" in diameter of the red oak group determined to be hazardous and not salvaged shall be disposed of by burning, chipping or removal to an authorized dump site prior to April 1 of the year following the appearance of symptoms. Dead standing red oaks that have advanced beyond the potential for spore production need not be removed except where they constitute a hazard to life and/or property.

d. As provided for in Section 12 of this ordinance, trees or parts there of not removed on or before April 1 by the property owner shall be removed by the municipality within 20 days after notification and the cost there of assessed against the property.

e. Stumps of trees of the red oak group removed due to oak wilt shall be completely covered, removed or debarked to the ground line to eliminate all possibilities of spore formation and overland disease spread.

## SECTION 8 - ROOT GRAFT DISRUPTION (BARRIERS) AT PROPERTY BOUNDARIES.

a. If the Town Forester finds that oak wilt threatens to cross property boundaries or disease control area boundaries, the Town Forester may require root graft disruption to prevent the spread of disease in this manner. If plowing or trenching is not possible due to terrain, location, or buried utilities, the Town Forester may require chemical root graft disruption. These barriers will be placed in accordance with current technology.

b. The charge, or any portion thereof, for any necessary root graft barriers may be assessed against the property on which the root barriers are placed.

c. Because oak wilt is a community problem and because oak wilt control may benefit an entire neighborhood, the tree inspector shall recommend and encourage neighborhood participation and cooperation, including cost sharing, in root graft disruption and other control efforts, especially where oak wilt is in danger of spreading across property boundaries.

SECTION 9 - PERMIT PROCEDURE. a. The Town Forester or appointed officials are authorized to issue permits for the cutting, pruning and trimming of living oaks and transport of oak wilt infected wood or bark or transport infected wood or bark in the Town of Wescott burnsite between April 1 to October 1 shall submit a written statement of a certified forester stating that the oak tree(s) proposed to be trimmed, cut or pruned are not infected with oak wilt fungus or in the proximity of any oak trees which are infected with oak wilt fungus which would promote the spread of the disease. The written statement must be dated within 15 days of application to the town clerk.

b. Permits for trimming or pruning of oaks shall not be given except in emergency situations, such as severe weather damage to oaks, which would require immediate attention to prevent oak wilt infection or damage to structures, power lines, and the like. If an emergency situation prevents an individual from getting a permit before cutting, pruning or trimming oak trees, within 10 days the individual must give written notification to the Town Forester regarding the circumstances of the emergency.

c. The Town shall provide a standard permit for all authorized officials to use. All permits shall include the following information:

1. The dates during which the permit is in effect.
2. Name, address and telephone number of the permittee.
3. The legal or plat description (or fire number) of the property where the activity is to take place.

4. An explanation of why the cutting, pruning, trimming or transport is required.

5. The requirement that all pruning or trimming wounds or stumps be immediately sealed with a tree wound dressing.

6. A statement explaining the liability on the part of the property owner to take abatement action if the permittee's actions result in oak wilt fungus infecting the permitted lands.

7. A statement of the potential liability of the permittee and landowner for control efforts and damages to neighboring properties in the event oak wilt fungus infects the permitted lands or the neighboring properties.

8. Signatures of the permittee, property owner (if different from permittee) and the issuing authority.

d. Permits for cutting of oaks shall include a description of the number and location of all oaks to be removed.

e. Permits for the transport of oak wilt infected wood must list the destination and method of destruction of the wood and the requirement that the Town Forester, upon demand, be given proof of the manner in which the wood was disposed.

f. Permits shall be issued for a period of up to 20 days.

g. The person doing the cutting, pruning, trimming or transporting shall have a copy of the permit at all times while doing the activity and shall provide this copy for inspection upon demand by the Town Forester or any official empowered to enforce this ordinance.

**SECTION 10 - PERMIT ISSUANCE.** Upon application for a permit with property written statement of the Town Forester, the clerk may issue a permit to trim, cut or prune and/or transport to the Town of Wescott burnsite, the specific oak tree(s) named in the application. The permit shall allow trimming, cutting or pruning within 20 days of issuance of the permit. Any person trimming, cutting or pruning oak tree(s) as authorized by permit under this ordinance shall properly seal the wood including the stump.

**SECTION 11 - NOTIFICATION OF NEW PROPERTY OWNERS.** At the time of sale or transfer of real property, the grantor(s) or his agent bears an affirmative obligation to disclose terms of this ordinance regulation to the grantee(s). The Clerk will circulate a copy of this ordinance free of charge to local Realtors currently known at time of passage, and provide information on future requests.

**SECTION 12 - ABATEMENT OF NUISANCES: DUTY OF FORESTER.** a. The forester shall order, direct, supervise and control the abatement of public nuisances as defined in this ordinance by spraying, removal, burning or by other means which he determines to be necessary to prevent as fully as possible the spread of the injurious insects or disease.

b. (1) When the Forester shall determine with reasonable certainty that a public nuisance exists upon private premises he shall immediately serve or cause to be served personally or by registered mail upon the owner of such property, if he can be found, or upon the occupant thereof, a written notice of the existence of such nuisance and of a time and place for a hearing, not less than 14 days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommended procedures for its abatement, and shall further state that unless the owner shall abate the nuisance in the manner specified in this notice, or shall appear at the hearing to show that such nuisance does not exist or does not endanger the health of trees, shrubs or plants in the Town, the Forester shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the Town.

(2) If after hearing held pursuant to this subsection it shall be determined by the Forester that a public nuisance exists, he shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance with the time period specified the Forester shall proceed to abate the nuisance and cause the cost thereof to be assessed against the property in accordance with the procedures provided in this ordinance. The Forester may extend the time allowed the property owner for abatement work.

**SECTION 13 - PENALTY.** Any person who shall trim, cut or prune any oak tree in the Town between April 1 and October 1 without a permit or shall transport into or through the Town any oak wood or bark infected with oak wilt fungus shall upon conviction thereof forfeit not less than \$50.00 nor more than \$500.00 together with costs of prosecution as allowed and in default of payment shall be imprisoned in county jail until both costs and forfeiture are paid, but not exceeding 60 days. Each tree or portion thereof cut in violation of this ordinance constitutes a separate offense. Whenever a complaint is filed on behalf of the town and the court deems it appropriate, an injunction may be authorized to prohibit future conduct in violation of this ordinance.

The cost of abating a public nuisance located on private premises when done at the direction and under the supervision of the Town Forester shall be assessed to the property on which such nuisance, tree or wood is located, in accordance with the provisions of Sec. 66-60, Wisconsin Statutes, which is adopted by reference and incorporated herein.

**SECTION 14 - ENFORCEMENT BY CITATION PROCEDURE.** This ordinance may be enforced by means of the citation procedure set forth in Town of Wescott Ordinance 2-81, or its successor. Any designated town enforcement officer may issue citations. The schedule of deposits for violation of this ordinance is as follows:

First violation (within three years)	\$75.00 plus court costs
Second violation (within three years)	\$125.00 plus court costs

An additional \$25.00 for each tree directly involved in violation is added.

**SECTION 15 - SEVERABILITY.** If any provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the provisions or application of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

**SECTION 16 - EFFECTIVE DATE.** This ordinance shall take effect upon its passage and publication as required by law. (Drafter's note - this is an integrated ordinance, and hence became effective in part in 1987, 1991 and 1994.)

# TOWN OF MENOMINEE/WESCOTT OAK WILT PREVENTION PERMIT

This permit is issued for (check one): ☐ Cutting, trimming or pruning of oak trees between April 1 and October 1.  
☐ Transport of wood known to be infected with oak wilt.

Name and address of permittee: \_\_\_\_\_ Phone #: \_\_\_\_\_

Is permittee the property owner(Yes or No)? ☐ If "No", owner must also sign below).

Location of property where oaks are located: \_\_\_\_\_

Reason for the activity: \_\_\_\_\_

Dates during which this permit is in effect: \_\_\_\_\_

Description and map of the specific trees to be cut, trimmed or pruned or the destination and method of destruction of all infected wood being transported through the Town: \_\_\_\_\_

1. All wounds made in any living oak tree as a result of the above-described cutting, trimming or pruning and any stumps left after cutting of oaks, shall be immediately covered with tree wound dressing.
2. If any trees on the above-described property, or any neighboring property, become infected with oak wilt as a result of the cutting, trimming or pruning activities described, the property owner shall be liable for abatement actions necessary to control the spread of the oak wilt, as required under respective Town Ordinances. The owner and permittee may also be liable to neighboring property owners for damages occurring as a result of the oak wilt infection, as allowed under Wisconsin Statutes.
3. Any person doing any cutting, trimming or pruning of oaks or transporting of oak wilt infected wood shall have a copy of this permit with him/her at all times and shall provide the permit for inspection upon demand of the Town Forester or any official empowered to enforce Town Ordinance.
4. Any permittee who obtains a permit for transport of oak wilt infected wood must provide to the Town Forester, upon demand, proof of the manner in which the wood was destroyed, or be subject to penalties under Town Ordinance.

Signature of Permittee: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Property Owner: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Authorized Permit Issuer: \_\_\_\_\_ Date: \_\_\_\_\_

**THERE WILL BE A FOLLOW-UP INSPECTION OF THE PROPERTY BY THE TOWN FORESTER**

The Wescott town board, following consultation with the town forester, does ordain as follows:

PURPOSE. This ordinance amends ordinance 87-1, as was previously amended, and as codified in 4.02, so the sections named read as follows:

3.a. **C. fagacearum** is a fungus that causes the disease known as oak wilt. It is a disease of oak trees carried overland by way of insect vectors carrying spores and underground by grafted root systems between healthy and infected trees.

7.d. As provided for in section 12 of the ordinance, trees or parts thereof not removed on or before April 1 by the property owner may be removed by the municipality after notification with the cost thereof assessed against the property.

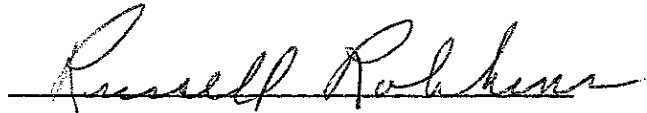
13. The maximum forfeiture penalty is amended from \$500 to \$1,000, together with costs of prosecution as allowed, and in default of payment the violator may be imprisoned in county jail until both costs and forfeiture are paid, not exceeding 60 days or the rate conversion currently used by the county circuit court.

Passed April 13, 1998.

Vote for: 3 against: 0



Chairperson Michel Schuler

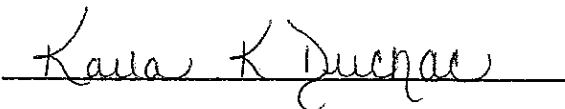


Supervisor Russell Robbins



Supervisor Willis Qualheim

Published in The News within  
30 days of passage.



Clerk Karla Duchac